

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HOWARD H. MORRICAL,

Plaintiff,

vs.

ATLAS COPCO COMPRESSORS, LLC, *et al.*,

Defendants.

Case No. 14-cv-52-SMY-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion to Vacate Memorandum and Order and Leave to File Response (Doc. 197). For the following reasons, the Court **DENIES** the motion.

On April 7, 2015, defendant Georgia-Pacific Corporation filed a Motion to Transfer Case (Doc. 188). Plaintiff's response was due on or before April 21, 2015. Plaintiff failed to timely respond or to request an extension of time to do so. Pursuant to Local Rule 7.1(g), on June 1, 2015, the Court deemed Plaintiff's failure to respond an admission of the merits and granted the Motion to Transfer Case (Doc. 196). Plaintiff has now filed a Rule 60(b) motion asking that the Court vacate its order transferring this case. Plaintiff asserts that his failure to file a response was excusable neglect resulting from "an inundation of dozens of questionable Daubert and summary judgment motions" in other cases pending before the Court.

Pursuant to Federal Rule of Civil Procedure 60(b)(1) a party may move to vacate an order for excusable neglect. *Robb v. Norfolk & Western Ry. Co.*, 122 F.3d 354, 359 (7th Cir. 1997). The district court has "discretion to consider the equities and then determine whether a missed filing deadline attributable to an attorney's negligence is (or is not) 'excusable neglect.'" *Id.* at

359. “‘Excusable neglect’ requires something more than a simple failure to meet the deadline due to a busy schedule.” *United States v. Dumas*, 94 F.3d 286, 289 (7th Cir. 1996).

Here, the explanation given by Plaintiff’s counsel for failing to respond for more than a month past the deadline does not satisfy the *Dumas* standard for excusable neglect. Therefore, Plaintiff’s Motion to Vacate Memorandum and Order and Leave to File Response (Doc. 197) is **DENIED.**

IT IS SO ORDERED.

DATED: June 1, 2015

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE